

DEPARTMENT OF STATE REVENUE**SUPPLEMENTAL LETTER OF FINDINGS NUMBER: 05-0013****Sales and Use Tax
For Tax Years 1998-2001**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE**I. Sales Tax—Liability for Unpaid Sales Tax**

Authority: IC 6-2.5-9-3

Taxpayer protests imposition of sales tax.

STATEMENT OF FACTS

Taxpayer pleaded guilty in criminal court to failure to remit sales tax. The Department of Revenue ("Department") assessed liabilities for the base tax, penalties and interest. Taxpayer protests that she paid all that was due under the court order. Further facts will be supplied as required.

I. Sales Tax—Liability for Unpaid Sales Tax**DISCUSSION**

Taxpayer pleaded guilty to failure to remit sales tax. The criminal court ordered taxpayer to perform community service, undergo probation and to pay the financial obligation. The Department's representative participated in a restitution hearing at which the amount of the obligation was determined.

The proposed sales tax liability was issued under IC 6-2.5-9-3, which provides:

An individual who:

- (1) is an individual retail merchant or is an employee, officer, or member of a corporate or partnership retail merchant; and

- (2) has a duty to remit state gross retail or use taxes to the department; holds those taxes in trust for the state and is personally liable for the payment of those taxes, plus any penalties and interest attributable to those taxes, to the state.

In the course of this protest, taxpayer provided sufficient documentation to establish that she paid her court ordered financial obligation to the Department in full. Since the Department participated in determining the amount of the financial obligation, and since taxpayer has paid the obligation in full, taxpayer owes no more sales tax, penalties or interest for this tax period for this business.

FINDING

Taxpayer's protest is sustained.

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